



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/170800

PRELIMINARY RECITALS

Pursuant to a petition filed December 14, 2015, under Wis. Admin. Code, §HA 3.03(1), to review a decision by Milwaukee Enrollment Services to reduce FoodShare benefits (FS), a hearing was held on March 9, 2016, at Milwaukee, Wisconsin, with the ALJ appearing by telephone. Hearings set for January 20 and February 24, 2016 were rescheduled at the petitioner's request.

The issue for determination is whether the agency correctly determined petitioner's FS after a review.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Milwaukee Enrollment Services
1220 W. Vliet Street
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. The agency reviewed petitioner's FS eligibility in November, 2015. Following the review petitioner's FS were reduced from \$194 monthly to \$16, effective January 1, 2016.
3. Petitioner's monthly income is \$1,779 social security. He pays \$796.04 monthly for his mortgage, condo fees, and insurance, and he gets the full \$458 utility allowance in the FS calculation. The

agency also gives him a \$372.73 medical expense deduction based upon \$407.73 monthly medical expenses.

DISCUSSION

In determining the amount of FS to be issued each month, the county must budget all of the recipient's nonexempt income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which currently is \$155 per month. 7 C.F.R. §273.9(d)(1); FS Handbook, Appendix 4.6.2. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); FS Handbook, App. 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); FS Handbook, App. 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FS Handbook, App. 4.6.6. The final deduction is for shelter expenses; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d)(5); FS Handbook, App. 4.6.7. The maximum shelter deduction is \$490 unless the household includes an elderly or disabled individual; in those cases there is no shelter cap. Handbook, App. 8.1.3. and 4.6.7.1.

Petitioner sent four potential arguments for a higher FS amount, with the one titled "Third and Final Revision" being the final word. I find two problems with his calculation. First, petitioner totaled his out-of-pocket medical expenses for the period July through December, 2015 to be \$677.72. He then, in his calculation, deducted that amount from his monthly income. The error is that the six-month total is not deducted monthly; the six-month total is divided by six to get a monthly amount, and the monthly amount is entered into the FS calculation. See Handbook, App. 4.6.4.3. Thus petitioner's total for six months would work out to approximately \$111 per month, but the agency is giving him a \$373.73 monthly medical expense deduction.

It is the medical expenses that account for the big reduction in petitioner's FS amount. In the prior certification period petitioner was allowed \$859.94 in monthly medical expenses as opposed to \$407.73 (remember that the deduction is total expenses minus \$35). That \$450 difference is the big change, and based upon petitioner's own calculations the agency is giving him a generous medical expense allowance now (the agency assumedly added in expenses not considered by petitioner such as medical insurance).

Thus, to determine FS each month the agency subtracts the \$155 standard deduction and the \$372.73 excess medical expense from \$1,779 to leave net income of \$1,251.27. The shelter deduction is the shelter cost above one-half of that amount. One half of the net income is \$625.63. Petitioner's shelter cost is \$1,254.04. Thus the shelter deduction is \$628.41. The FS then are based on \$1,251.27 minus \$628.41 equals \$622.86. A one-person household with \$622.86 net income receives \$16 FS. Handbook, App. 8.1.2. To receive even one dollar more in FS per month net income has to be between \$587 and \$590.

In petitioner's calculations he deducts the shelter deduction twice. I looked through the FS Worksheet, Form no. F-16033 (07/11) on calculating FS and find no basis for deducting shelter twice. The shelter deduction is at line 18 and is deducted from line 15 net income.

Based on these calculations I conclude that the agency correctly determined petitioner's FS after his review. If petitioner has additional medical expenses he can always submit them to the local agency for review.

CONCLUSIONS OF LAW

The agency correctly reduced petitioner's FS to \$16 monthly due to a reduction in his medical expense deduction.

THEREFORE, it is

ORDERED

That the petition for review is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 14th day of March, 2016

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 14, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability